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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,695	08/03/2001	Pierre Olry	BDL-356XX	6216

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EXAMINER	
LISH, PETER J	

ART UNIT	PAPER NUMBER
1754	

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/890,695	OLRY ET AL.
	Examiner	Art Unit
	Peter J Lish	1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 November 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Applicant's arguments filed 11/24/03 have been fully considered but they are not persuasive.

Applicant argues that Nishino does not teach a continuous process whereby the fabric is continuously passed through a carbonization furnace. Examiner agrees with applicant, and has therefore used an obviousness-type rejection utilizing the teaching of Abbott. Abbott teaches a similar process for the carbonization of cellulose fiber by either a batch or continuous process, however, which preferably utilizes continuous passage of the fiber through a carbonization furnace having successive zones. It would have been obvious to perform the treatment of Nishino in a similar continuous manner, given the teaching of Abbott, as stated in the rejection.

Performing the process of Nishino in a continuous manner, given the teaching of Abbott, would not require a substantial reconstruction and redesign of the process, it would merely require that the process be performed in a continuous manner, as taught by Abbott, rather than the batch manner used by Nishino.

Moreover, the reference to Nishino teaches the temperature and heating rates of the presently claimed limitation. A continuous process using the treatment conditions taught by Nishino (the temperatures and heating rates), i.e. the process taught by the combination of Nishino and Abbott, would have the multiple stages of controlled temperature as well as the transit time as claimed by the applicant.

Applicant argues that it would not be obvious to use the drying process of Simpson in the treatment process of Nishino, however, it is seen by the examiner that Simpson teaches a process for the treatment and carbonization of cellulose fiber by a process almost identical to that taught

by Nishino. Both teach the treatment of the fiber with a Lewis acid, such as zinc chloride, followed by carbonization. Simpson teaches the additional drying before carbonization to remove any treatment solution from the fiber. It would have been obvious to perform this drying step in the process of Nishino for the reasons stated in the office action.

Applicant argues that the references teach the treatment of cellulose fiber, as opposed to a cellulose fabric as instantly claimed. However, it is seen that Nishino teaches the treatment of fibers, woven fabrics of fibers, or non-woven fabrics of fibers. Additionally, Simpson teaches the treatment of both fibers and fabrics in the same manner.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the use of individually controlled temperature zones) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that an activation step is not taught, however, Nishino explicitly teaches the process of activation after carbonization.

Regarding the applicant's arguments with respect to the rejection of claims 7-8, 14, and 16, the use of the reference to Perkins is used to show that the graphitization of carbonized cellulose fibers is known in the art. It would have been obvious to graphitized the carbonized cellulose fibers of Nishino for the reasons stated in the office action. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only

knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 1-6, 9-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishino et al. (US 4,409,125) taken with Abbott (US 3,053,775) and further in view of Simpson (US 4,274,979).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Claims 7-8,14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishino et al. taken with Abbott and in view of Simpson, as applied to claims 1-6, and 9-13 above, and further in view of Perkins (GB 1,136,349).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Lish whose telephone number is 571-272-1354. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PL

STUART L. HENDRICKSON
PRIMARY EXAMINER